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5 *Attorneys for Plaintiff LHF Productions, Inc.*

6 **UNITED STATES DISTRICT COURT**

7 **DISTRICT OF NEVADA**

8 LHF PRODUCTIONS, INC., a Nevada  
9 Corporation,

10 Plaintiff,

11 vs.

12 MARIA GONZALEZ, an individual;  
BRIAN KABALA, an individual; JOHN  
13 KOEHLI, an individual; DANIEL  
O'CONNELL, an individual; DONALD  
PLAIN, an individual; ANTE SODA, an  
14 individual; MATTHEW STEWART, an  
individual; and JOHN AND JANE DOES.

15 Defendants

16  
17 BRIAN KABALA, an individual;

18 Counter-Plaintiff,

19 vs.

20 LHF PRODUCTIONS, INC., a Nevada  
Corporation,

21 Counter-Defendant,  
22

Case No.: 2:16-cv-02028-JAD-NJK

**DECLARATION OF F. CHRISTOPHER  
AUSTIN IN SUPPORT OF MOTION TO  
EXTEND TIME TO FILE REPLY IN  
SUPPORT OF COUNTER-DEFENDANT'S  
RENEWED MOTION TO WITHDRAW A  
FALSE ADMISSION OF NON-  
INFRINGEMENT (ECF 151)**

23 I, F. Christopher Austin, declare under penalty of perjury under the laws of the United  
24 States that the following is true and correct:

25 1. I am counsel for Counter-Defendant, LHF PRODUCTIONS, INC. (hereafter  
26 referred to as "Counter-Defendant" or "LHF") in the above captioned matter. I am over the age  
27 of 21, under no disability, and am competent to testify to the matters contained in this declaration.

28 2. I make this declaration in support of a LHF's Renewed Motion to Withdraw a

1 False Admission of Non-Infringement (ECF 151).

2 3. This Motion is necessitated by my current conflicting docket, which includes (i) a  
3 Nevada Supreme Court reply brief in an unrelated matter, an (ii) opposition to Counter-Plaintiff's  
4 Motion to Compel (ECF 155), and a (iii) reply in an unrelated matter in support of a motion to  
5 stay an appeal before the Ninth Circuit Court of Appeals, all of which are due the same day, this  
6 Friday, June 29, 2018.

7 4. The deadlines for the pending appeal brief and the opposition to ECF 155 pre-date  
8 the deadline for this Reply which became due by operation of the Rules upon the filing by  
9 Counter-Plaintiff on Friday June 22, 2018, of an opposition to LHF's Motion to Withdraw a False  
10 Admission (ECF 161).

11 5. The Ninth Circuit reply deadline of the same day is similarly driven by the filing  
12 of an opposition in that matter last Friday June 22, 2018, as well.

13 6. The net result of these prior-existing and concurrent obligations is that I will not  
14 have adequate time to address the issues set forth in the Opposition (ECF 155) with representatives  
15 for LHF or to properly prepare a reply by the current deadline.

16 7. Upon realizing the conflict on the morning of Monday, June 25, 2018, I  
17 immediately sought a stipulation with opposing counsel in accordance with LR 1A 1-3(f), by  
18 sending such counsel explaining my current docketing conflict. Opposing counsel refused to  
19 stipulate to the requested extension. A true and accurate copy of the correspondence dated June  
20 25, 2018, with Lisa Clay, counsel for Counter-Plaintiff, is attached to the Motion as Exhibit 2.

21 8. In refusing the extension request, counsel for Counter-Plaintiff complained that  
22 because LHF had sought and obtained a one-week extension (ECF 160) on the deadline to oppose  
23 the motion to compel (ECF 155), and because Ms. Clay did not like the discovery responses timely  
24 served in response to Counter-Plaintiff's Third Requests for Production—which are unrelated to  
25 the motion or Reply at issue—no "courtesies" would be forthcoming for the instant request.

26 9. The refusal appeared to be motivated by personal animus against me and my client  
27 and not because of some prejudice to Counter-Plaintiff, as no such prejudice was identified or  
28 articulated by counsel for Counter-Plaintiff.

1           10.     LHF, on the other hand, will be severely prejudiced if required to file its Reply by  
2 this Friday, June 29<sup>th</sup>. The Motion at issue, a Motion to Withdraw a dispositive Admission (ECF  
3 151), relates to a case dispositive issue. (*See* ECF 151). Absent the requested extension, I will  
4 not have the time to properly and adequately consult with Counter-Defendant on the issues raised  
5 in the opposition or prepare the Reply due to prior existing and significant briefing obligations in  
6 other matters—including the filing of an appellate reply brief before the Nevada Supreme Court,  
7 and an opposition in motion practice before the Ninth Circuit of Appeals.

8           11.     I certify that this Motion is brought in good faith and not to delay or prejudice the  
9 opposing party.

10           Dated: June 26, 2018.

11                               /s/ F. Christopher Austin

12                               F. Christopher Austin, Esq.

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